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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,510	04/18/2001	Shaun D. Pierce	1018.131US1	4612
22801	7590	07/08/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			POLLACK, MELVIN H	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/681,510

Applicant(s)

PIERCE, SHAUN D.

Examiner

Melvin H. Pollack

Art Unit

2145

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 23 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER**

Continuation of 3. NOTE: newly added claims must be searched and considered.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments are not persuasive and were not persuasive when used after the applicant's last remarks section, of which the examiner will use as the basis of arguments here.

Regarding applicant's assertion of mischaracterization (P. 15, lines 17-24), the examiner had interpreted that the existence or absence of the instantaneous networks as currently drawn is based upon the proximity of the devices, wherein a network is established if and only if a device moves into proximity. If this is not the case, then the claims must be amended to reflect this.

Regarding the mapping of the devices (P. 16, lines 6-12), it was shown clearly in the last office action that M1 is mapped to the first device of the application, M2 to the second, and so forth. Beyond that, applicant provides no arguments other than a broad statement that the structure is different.

Regarding the statement of receiving communications from unknown nodes from unknown piconets, or of buffering and establishing communications thereof (P. 17, lines 17-21), none of these limitations are in the claims, and the applicant is reminded that limitations cannot be read from the specification.

Regarding the need of all nodes participating in a given communication (P. 17, lines 21-24), Morris does not teach a static network as the applicant seems to believe. Rather, S4 may move away from some of the devices and break piconets, as shown in the last office action, and communication may still occur and in the method described by the claims. Further, the case is set up so that S4 receives a communication from a device, breaks that connection, waits for a connection to the third device, and then delivers the communication, thus fulfilling the "networks not simultaneous (P. 19, lines 7-10)" requirement.

More detailed arguments will be provided in response to an RCE or Appeal Brief.